

# **PROPOSED AMENDED REGULATORY TEXT**

*PROPOSED ADDITIONS ARE INDICATED BY UNDERLINE AND  
DELETIONS ARE INDICATED BY ~~STRIKETHROUGH~~.*

## **TITLE 15. CRIME PREVENTION AND CORRECTIONS DIVISION 2. BOARD OF PRISON TERMS CHAPTER 1. GENERAL ARTICLE 5. INDIVIDUAL CASE DECISIONS**

Section 2041. Review of Proposed Decisions.

(a) General. Board decisions, except decisions made at documentation hearings and decisions which do not require a hearing, are proposed decisions and shall be reviewed prior to their effective date in accordance with the following procedures. Except as provided in subdivision (j), an order for a new hearing vacates a proposed decision. Any other board decision may be reviewed after its effective date as provided in these rules or as specified by the chairperson.

(b) Review of Decisions at Revocation Hearings. Decisions made at revocation hearings shall be effective on the date signed by the panel. P&CSD shall immediately implement the decision. A decision may be reviewed within 10 days by the decision review unit. If the decision review unit disapproves the decision and orders a new hearing, the parolee shall be notified and, if necessary, the parole agent shall place a hold following the criteria of §§ 2600-2602. If the decision review unit modifies the decision without a new hearing, the parole agent shall implement the modified decision immediately.

(c) Decision Review Unit. The decision review unit shall be composed of at least one deputy commissioner as designated by the chairperson except as otherwise provided in this section.

(d) Review of Decisions from Mentally Disordered Offender Hearings. Proposed decisions made at Mentally Disordered Offender Certification, Placement, and Annual Review Hearings shall be implemented immediately by staff from the Department of Mental Health, P&CSD and the board. The decision shall be reviewed by the chief deputy commissioner or a designee. Within 20 days of the hearing, the chief deputy commissioner may: (i) affirm the proposed decision, (ii) order a new hearing, or (iii) modify the decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the interests of the parolee. If the chief deputy commissioner disapproves the decision and orders a new hearing, the parolee shall be notified and, if necessary, the parole agent shall place a hold following the criteria specified in §§ 2600-2602. If the chief deputy commissioner modifies the decision without a new hearing, staff from the Department of Mental Health, P&CSD and the board shall implement the modified decision immediately. Decisions subject to this subdivision shall be given an effective date not later than 20 days from the hearing, unless expedited under subdivision (k).

(e) Review of Decisions from Sexually Violent Predator Probable Cause Hearings. Proposed decisions from probable cause hearings under the Sexually Violent Predator Program shall be implemented immediately by staff from the Department of Mental Health, P&CSD, and the board. The decision shall be reviewed by the chief deputy commissioner or a designee. Within 10 days of the hearing, the chief deputy commissioner may: (i) affirm the proposed decision, (ii) order a new hearing, or (iii) modify the decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the prisoner's interests. If the chief deputy

commissioner disapproves the decision and orders a new hearing, the prisoner shall be notified and, if necessary, the parole agent shall place a hold following the criteria specified in §§ 2600-2602. If the chief deputy commissioner modifies the decision without a new hearing, staff from the Department of Mental Health, P&CSD and the board shall implement the decision immediately. Decisions subject to the subdivision shall be given an effective date no later than 10 days from the hearing.

(f) Review of ISL Parole Consideration and Rescission Hearings. Proposed decisions made at ISL Parole Consideration and Rescission Hearings shall be reviewed by the chief counsel or a designee. Within 90 days of the hearing, the chief counsel may: (i) affirm the proposed decision, (ii) order a new hearing, or (iii) modify the proposed decision without a new hearing. No decision shall be modified without a new hearing if the decision would be adverse to the prisoner's interest. In cases where the chief counsel recommends a modification where the decision is adverse to the prisoner's interest, the matter shall be referred to the full board for review. No proposed decision shall be referred for a new hearing without a majority vote of the board following a public hearing. Before the matter is referred to the full board for review, the chief counsel or designee shall consult with the panel members who conducted the hearing. If any new information is received by the chief counsel or a designee that is adverse to a life prisoner, the new information will be forwarded to the prisoner and the prisoner's attorney. The prisoner and the attorney will be afforded an opportunity to respond in writing within a reasonable amount of time to the new information. Any proposed decision of the panel shall become final within 120 days of the hearing.

(g) Review of Serious Offender Hearings (Penal Code s 1170.2(b)). Proposed decisions

made at Serious Offender Hearings shall be reviewed by the chief counsel or a designee. Within 60 days of the hearing, the chief counsel may: (i) affirm the proposed decision, (ii) order a new hearing or (iii) modify the proposed decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the prisoner's interest. If any new information is received by the chief counsel or a designee that is adverse to the prisoner, the new information will be forwarded to the prisoner and the prisoner's attorney. The prisoner and the attorney will be afforded an opportunity to respond in writing within a reasonable amount of time to the new information. Decisions subject to the subdivision shall be given an effective date no later than 60 days from the hearing.

(h) Review of Life Prisoner Decisions. Proposed decisions made at hearings for prisoners serving a sentence of life with the possibility of parole ~~may shall~~ be reviewed by the chief counsel or a designee. Grants of parole shall be reviewed by the chief counsel or a designee. A random sample of parole denials, as determined by the Board, shall be reviewed by the chief counsel or a designee. Within 110 days of the hearing, the chief counsel, or a designee, may: (i) affirm the proposed decision, (ii) order a new hearing, or (iii) modify the proposed decision without a new hearing. No decision shall be modified without a new hearing if the decision would be adverse to the prisoner's interest. If any new information is received by the chief counsel or a designee that is adverse to a life prisoner, the new information will be forwarded to the prisoner and the prisoner's attorney. The prisoner and the attorney will be afforded an opportunity to respond in writing within a reasonable amount of time to the new information. In cases where the chief counsel recommends a modification where the decision is adverse to the prisoner's

interest, the matter shall be referred to the full board for en banc review. No proposed decision shall be referred for a new hearing without a majority vote of the board following a public hearing. Before the matter is referred to the full board for review, the chief counsel or designee shall consult with the commissioners who conducted the hearing. Any proposed decision of the panel shall become final within 120 days of the hearing.

(i) New Hearings. For purposes of this section, the modification of a decision which would be adverse to the prisoner's or parolee's interest is one which would result in the denial of release from custody or require a longer period of confinement.

(j) Waiver of New Hearing. In cases where a new hearing is ordered, the prisoner or parolee is entitled to waive the right to the hearing and accept the modification suggested by the reviewing authority. In cases where the prisoner or parolee was represented by an attorney at the hearing, the prisoner shall be afforded 10 days to consult with counsel prior to the execution of the agreement to the proposed modification and the waiver of right to a hearing.

(k) Expedited Review. Any proposed decision which would result in the immediate release of a prisoner or parolee except one affecting a life prisoner, shall be reviewed, given an effective date, and released no later than 10 days from the date of the hearing.

(l) Split Vote. Any split vote on an ISL hearing panel shall be referred to the next immediate panel for another hearing.

Authority cited: Section 12838.4, Government Code and Sections 3052 and 5076.2, Penal Code. Reference: Sections 1170.2, 2964, 2966, 3041, 3042, 3060, 3063.5, 3063.6, 5075, and 5076.1, Penal Code; and sections 6600-6601.3, Welfare and Institutions Code.